IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

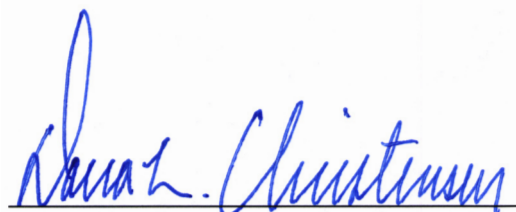|	
WILLIAM VASQUEZ,	CV 18–164–M–DLC
Plaintiff,	
vs.	ORDER
BNSF RAILWAY COMPANY, a Delaware corporation,	
Defendant.	

Before the Court are the parties' briefs regarding electronically stored information ("ESI") policies and procedures. (Docs. 19 & 20.) Upon review of the parties' arguments and supporting authorities, the Court is confident that the Federal Rules of Civil Procedure, the District of Montana's Local Rules, and this Court's scheduling order (Doc. 18) fully and fairly govern the appropriate scope of discovery, regardless of whether the discoverable information is stored electronically. At this time, the Court will not implement a specific ESI policy or require an ESI conference.

The parties are represented by competent and experienced counsel, and the Court is confident of the parties' ability to understand and comply with the relevant authorities. Notably, a party seeking ESI "may specify the form or forms in which

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electronically stored information is to be produced." Fed. R. Civ. P. 34(b)(C). In the absence of a reasonable objection to production, the responding party must produce discoverable ESI or face sanctions. Fed. R. Civ. P. 34(b)(2), 37. The parties are fully capable of determining the discoverability of ESI without further intervention, particularly in light of the rulings made by this Court in the recent case of *Wooten v. BNSF*, 9:16–cv–139–DLC, which the Court counsels the parties to revisit while making and responding to discovery requests.

Ultimately, if there is a dispute between the parties regarding discoverability, the parties have an affirmative obligation to confer "in good faith" prior to seeking court intervention. Fed. R. Civ. P. 37(a)(1). If a good faith dispute remains, the parties may file discovery motions, and the Court will rule on the motions consistent with the above-cited authorities.

DATED this 12th day of March, 2019.

Dana L. Christensen, Chief Judge
United States District Court